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10 **UNITED STATES BANKRUPTCY COURT**
11 **FOR THE DISTRICT OF NEVADA**

12 In re:

13 WALTER P. LLOYD and
14 YOLANDA G. LLOYD;

15 Debtors.

Case No. 13-13715-mkn

Chapter 7

**TRUSTEE'S MOTION FOR TURNOVER
OF ASSETS FROM DEBTORS**

Hearing Date: February 26, 2014

Hearing Time: 2:30 p.m.

16 BRIAN SHAPIRO, the duly appointed Chapter 7 Trustee of the above-captioned
17 bankruptcy estate ("Trustee"), hereby moves this Court for an order requiring Debtor to
18 immediately turn over certain personal property items, which were not included on Debtor's
19 schedules, to the Trustee for proper administration as part of the bankruptcy estate.

20 This motion is based on: the Memorandum of Points and Authorities contained herein; the
21 pleadings and papers on file in this case; the *Declaration of Robert Atkinson, Esq.* ("Atkinson
22 Decl.") docketed concurrently herewith; and any oral arguments made at the time of hearing on this
23 matter.

24 DATED: January 22, 2014

ATKINSON LAW ASSOCIATES P.C.

25 By: /s/ Robert Atkinson

26 ROBERT E. ATKINSON, ESQ.

27 Nevada Bar No. 9958

28 *Attorney for Brian D. Shapiro, Trustee*

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

1. On April 29, 2013, Debtors filed for relief under Chapter 11 of Title 11 of the United States Code (the “*Bankruptcy Code*”). See DE #1.

2. On September 6, 2013, Debtors voluntarily converted their case to Chapter 7 and Brian Shapiro was appointed as Chapter 7 Trustee. See DE #47 & DE #49.

3. On November 15, 2013, Trustee’s counsel went to Debtors’ residence to review and photograph various items of personal property. True and correct copies of some of the photographs taken by Trustee’s counsel are attached hereto as **EXHIBIT 1**. *Atkinson Decl.* at ¶ 3.

4. In particular, Trustee’s counsel observed the following items of personal property in the possession of the Debtors:

- a. A flatbed trailer
- b. An antique Coca-Cola brand vending machine/refrigeration unit
- c. A lawn tractor (not pictured)

Atkinson Decl. at ¶ 4; see also **EXHIBIT 1**.

5. Mr. Lloyd indicated to Trustee’s counsel that these items were property of the Debtor, and at no time indicated that they were owned by any other person or entity. *Atkinson Decl.* at ¶ 5.

6. None of these items were identified by the Debtors on their Schedule B. See DE #66 at p. 2-5.

7. Furthermore, this property should not have been grouped into any of the Debtors’ general asset descriptions. The flatbed trailer should have been identified on Schedule B under item #25 (automobiles, trailers, and vehicle accessories). The antique vending machine should have been identified under item #5 (art, antiques, and collectibles). The lawn tractor does not fit under the primary categories and therefore should have been identified under item #35 (other personal property).

8. None of these assets were claimed as exempt by Debtors on Schedule C, and therefore they are property of the bankruptcy estate. See *id.* at p. 6; see also 11 U.S.C. § 541.

1 9. Trustee's counsel has researched the above-listed items, and determined that their value
2 to the bankruptcy estate would not be inconsequential. *Atkinson Decl.* at ¶ 6.

3 10. Accordingly, the Trustee seeks immediate turnover of these items of personal property
4 to the bankruptcy estate.

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7 **II. LEGAL AUTHORITIES and ARGUMENT**

8 11. Pursuant to 11 U.S.C. § 542:

9 Except as provided in subsection (c) or (d) of this section, an
10 entity, other than a custodian, in possession, custody, or
11 control, during the case, of property that the trustee may use,
12 sell, or lease under section 363 of this title, or that the debtor
13 may exempt under section 522 of this title, shall deliver to the
14 trustee, and account for, such property or the value of such
15 property, unless such property is of inconsequential value or
16 benefit to the estate.

17 11 U.S.C. § 542(a).

18 12. The items of personal property listed above are property of the Debtors; therefore, these
19 items are rightly included in the Debtor's bankruptcy estate. See 11 U.S.C. § 541(a)(1).

20 13. Furthermore, Debtors have made no claim to exempt these items of personal property
21 from the bankruptcy estate. See DE #66 at p. 8.

22 14. The Trustee believes these items of personal property have more than inconsequential
23 value to the estate, and thus seeks their immediate turnover for administration as assets of the estate
24 pursuant to 11 U.S.C. § 542(a).

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III. RELIEF REQUESTED

15. For the reasons stated herein, the Trustee respectfully requests that the Court enter an order requiring the Debtors to immediately turn over the flatbed trailer, the antique Coca-Cola brand vending machine/refrigeration unit, and the lawn tractor to the Trustee on behalf of the Debtor's bankruptcy estate.

DATED: January 22, 2014

ATKINSON LAW ASSOCIATES P.C.

By: /s/ Robert Atkinson

ROBERT E. ATKINSON, ESQ.

Nevada Bar No. 9958

Attorney for Brian D. Shapiro, Trustee

EXHIBIT 1







